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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,540	05/12/2004	Kenneth A. Stanzel	ITW7510.060	3539

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ZIOLOKOWSKI PATENT SOLUTIONS GROUP, SC (ITW)  
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PORT WASHINGTON, WI 53074

EXAMINER

TRAN, LEN

ART UNIT	PAPER NUMBER
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1725

MAIL DATE	DELIVERY MODE
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06/11/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/709,540	Applicant(s) STANZEL ET AL.	
	Examiner Len Tran	Art Unit 1725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 39-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 53-56 is/are allowed.
- 6) ☒ Claim(s) 39-44, 49-52 is/are rejected.
- 7) ☒ Claim(s) 45-48 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 49-52 are rejected under 35 U.S.C. 102(b) as being anticipated by  
DE 83 08 999.3.

As to claim 49, the method of providing shielding gas comprising the steps of initiating an arc, opening the gas path to a gas system and providing shielding gas immediately upon connection of a gas source to the welding device (page 1).

As to claim 50, closing the gas source by separating the gas source and the welding type device.

As to claims 51-52, the welding type device comprising, means for generating power, means for providing shielding gas, and means for connecting the means for providing shielding gas and the means for generating power upon connection of the means for providing shielding gas and the means for generating welding power (figure).

*Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE '999.3 and further in view of Garland (US 4,782,204).

As to claim 39, DE '999.3 discloses a welding device comprising a housing (2) enclosing a power source, a gas cylinder (1) attached to the housing, wherein the gas cylinder has a length that is less than a length of a side of the housing and the gas cylinder is fluidly connected to the welding device by translating the gas cylinder along the longitudinal axis of the gas cylinder (figure).

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However, DE '999.3 fails to teach an adapter fluidly connected to a torch. Garland discloses an adapter (31) fluid connected to a torch for the purpose of elevating the gas flow rate.

Therefore, it would have been obvious to an ordinary skill in the art at the time applicant's invention was made to have an adapter taught by Garland, in DE '999.3, in order to elevate the flow rate.

As to claim 40, a regulator (5) attached to the cylinder.

As to claim 41, the gas cylinder is disposable.

As to claim 42, the gas cylinder is refillable.

5. Claims 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE '999.3 in view of Anderson (US 6,590,184).

DE 999.3 discloses the claimed invention above, but lacks the mentioning of a shroud positioned in the housing the have recess to receive a cylinder and having strap to secure the cylinder.

However, Andersen discloses a shroud (30) having recess to receive a cylinder (32) and strap (31) for the purpose of securing the cylinder while transporting the welding device.

Therefore, it would have been obvious to an ordinary skill in the art to have a shroud and strap as taught by Andersen, in DE '999.3 in order to secure the cylinder during transporting.

*Allowable Subject Matter*

6. Claims 53-56 allowed.

7. Claims 45-48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record fail to teach a shroud further comprises a second recess connected to the first recess and constructed to snugly receive and adapter body therein.

*Response to Arguments*

8. Applicant's arguments filed on 3/28/07 have been fully considered but they are not persuasive.

As to applicant's argument regarding to claims 39-42, examiner introduced a new reference, Gartland (US '204) to show an adapter.

As to applicant's argument that DE '999.3 fails to teach providing shielding gas immediately upon connection, examiner respectfully disagrees. The term "immediately" does not provide a specific time frame. Based on broadest interpretation, DE '999.3 would immediately turn on the gas upon connection to the gas source.

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As to applicant's argument that DE '999.3 fails to teach the claimed limitation in claim 52, examiner respectfully disagrees. DE '999.3 discloses means for generating power (power supply), means for providing gas (gas cylinder), means for connecting (figure, control panel #8) to connect gas and power.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

### ***Inquiry***

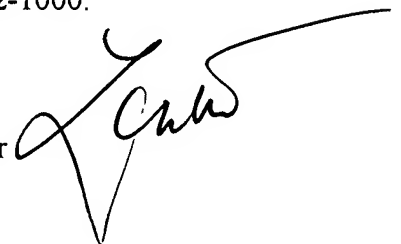
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Len Tran whose telephone number is (571) 272-1184. The examiner can normally be reached on M-F, 8:30 - 5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jonathan Johnson can be reached on 571-272-1177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Len Tran  
Primary Examiner  
Art Unit 1725

A handwritten signature in black ink, appearing to read 'Len Tran', is written over the printed name and title.

June 6, 2007